

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2013020547

ORDER GRANTING STUDENT'S
MOTION TO AMEND COMPLAINT

On February 13, 2013, Parent on behalf of Student filed a request for due process hearing (complaint), naming the Acalanes Union High School District (District).

On March 26, 2013, Student filed a first "addendum" to his complaint alleging further claims and seeking further relief. No opposition has been received.

Student's first addendum will be treated as a motion for leave to amend his complaint.

APPLICABLE LAW

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

DISCUSSION

Student's motion to amend is timely made more than 5 days prior to the due process hearing scheduled in this matter for May 29, 2013. The proposed amendment is a partial document, meant to add to and be read in conjunction with Student's original complaint, and states four additional claims and proposed resolutions. Both documents allege different claims regarding District's procedural violations in assessing Student and convening the individualized education program (IEP) team meeting at which Student was found ineligible for special education and related services. Although it is the better practice to include all claims in one amended complaint, Student's original complaint and "Addendum I" will be

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

deemed one operative pleading for purposes of moving this matter forward to hearing in an expeditious manner.

Accordingly, Student's motion for leave to amend by filing an "addendum" to his original complaint is granted.

Student is admonished that he shall not file further "addendums" in this matter. Any future changes to Student's complaint must be sought by way of a motion for leave to amend, and must be accompanied by a copy of the proposed amended complaint stating all claims and proposed resolutions in a single document.

ORDER

1. Student's motion for leave to amend is granted. Student shall not file any more documents called "addendum" and any new filing seeking to add to the complaint shall be a "Motion to Amend Complaint," which must be accompanied by a proposed new complaint that includes all claims in one document.
2. Student's original complaint and "Addendum I" shall be treated as a single document for purposes of stating Student's claims and proposed resolutions in this due process proceeding, and shall be hereafter referred to as Student's "first amended complaint."
3. Student's first amended complaint shall be deemed filed on the date of this order.
4. All applicable timelines shall be reset as of the date of this order.
5. OAH will issue a scheduling order with the new dates.

Dated: April 3, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings